

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

701 Pennsylvania Avenue, N.W.

Washington, D.C. 20004  
EX PARTE OR LATE FILED

One Financial Center  
Boston, Massachusetts 02111  
Telephone: 617/542-6000  
Fax: 617/542-2241

Telephone: 202/434-7300  
Fax: 202/434-7400  
Telex: 753689

Howard J. Symons

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MAR 12 1993

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March 12, 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Re: MM Docket No. 92-265  
Notice of Ex Parte Presentation

Dear Ms. Searcy:

On March 9 and March 11, 1993, representatives of Cablevision Systems Corporation ("Cablevision") and Rainbow Programming Holdings, Inc. ("Rainbow") met with Chairman Quello, and staff of the Mass Media Bureau to discuss the program access provisions of the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"). In addition to presenting arguments reflected in Rainbow's written comments in the above-captioned proceeding, the Cablevision and Rainbow representatives proposed that the Commission take into account the manner in which a multichannel video programming distributor positions a particular programming service (as well as, among other things, all other material contract terms and conditions, and the effectiveness, quality and service offerings of the distributor) in determining whether the price, terms, and conditions under which the programming is made available to the distributor constitutes "discrimination" under Section 19 of the 1992 Cable Act.

The Cablevision and Rainbow representatives explained that a Rainbow-managed program service may be offered in some instances as part of the entry level basic tier of satellite services; in other instances as a stand-alone a la carte service; and in still other cases as part of a "hybrid" configuration (e.g., a discretionary package with or without an a la carte option). For example, a major cable MSO that offers the Bravo programming service on an a la carte basis (like HBO and Showtime) is charged a wholesale rate that is more than 1000% higher than the wholesale rate that the same MSO pays for the rights to offer

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Bravo on the entry level basic tier of satellite services (along with MTV, CNN, USA, ESPN, Discovery, etc.). This rate differential reflects the lower penetration of an a la carte